

AMENDED IN SENATE MARCH 23, 2015

**SENATE BILL**

**No. 253**

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**Introduced by Senator Monning**

(Principal coauthor: Assembly Member Chiu)

**(Coauthor: Senator Beall)**

*(Coauthor: Assembly Member Gatto)*

February 18, 2015

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An act to amend Section 369.5 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 253, as amended, Monning. Dependent children: psychotropic medication.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge children to be dependents of the court under certain circumstances, including when the child suffered or there is a substantial risk that the child will suffer serious physical harm, or a parent fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child who has been removed from the physical custody of his or her parent. Existing law requires the court authorization for the administration of psychotropic medication to *a child* be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication.

This bill would require *that* an order authorizing *the* administration of psychotropic medications to ~~only a dependent child~~ be granted ~~on only upon the demonstration of~~ clear and convincing evidence ~~of that~~

~~specified matters, and criteria are met, including a requirement that the prescribing physician attest under penalty of perjury that he or she has conducted a comprehensive evaluation of the child, as specified. The bill would prohibit the court from authorizing the administration of psychotropic medications for to a child under other specified circumstances, unless a 2nd independent medical opinion is obtained from a child psychiatrist or a psychopharmacologist if one or more specified circumstances exist, including if the request is for any class of psychotropic medication for a child who is 5 years of age or younger.~~ psychopharmacologist. The bill would prohibit the court from authorizing the administration of a psychotropic medication unless the court is provided documentation that appropriate screenings and tests for the child have been completed no more than 30 days prior to submission of the request to the court. *The bill would impose additional requirements on the court to implement these provisions and to conduct review hearings, as specified. The bill would require the Judicial Council to adopt rules to implement these provisions.*

*By requiring the attestation of the prescribing physician under penalty of perjury, as described above, this bill would create a crime and impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 369.5 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 369.5. (a) If a child is adjudged a dependent child of the court
- 4 under Section 300 and the child has been removed from the
- 5 physical custody of the parent under Section 361, only a juvenile
- 6 court judicial officer shall have authority to make orders regarding
- 7 the administration of psychotropic medications for that child. The
- 8 juvenile court may issue a specific order delegating this authority
- 9 to a parent upon making findings on the record that the parent

1 poses no danger to the child and has the capacity to authorize  
2 psychotropic medications. Court authorization for the  
3 administration of psychotropic medication shall be based on a  
4 request from a physician, indicating the reasons for the request, a  
5 description of the child's diagnosis and behavior, the expected  
6 results of the medication, and a description of any side effects of  
7 the medication. On or before July 1, ~~2000~~, 2016, the Judicial  
8 Council shall adopt rules of court and develop appropriate forms  
9 for implementation of this section. *Whenever the court authorizes*  
10 *the administration of a psychotropic medication, it shall ensure*  
11 *that the administration of the psychotropic medication is only one*  
12 *part of a comprehensive treatment plan for the child that shall*  
13 *include and specify the psychosocial services the child will receive*  
14 *in addition to any authorized medication.*

15 (b) (1) An order authorizing the administration of psychotropic  
16 medications pursuant to this section shall only be granted on clear  
17 and convincing evidence of all of the following:

18 ~~(1)~~  
19 (A) The medication is not being used as ~~a chemical restraint.~~  
20 *punishment, for the convenience of staff, as a substitute for other,*  
21 *less invasive treatments, or in quantities or dosages that interfere*  
22 *with the child's treatment program.*

23 ~~(2)~~  
24 (B) If the child is 12 years of age or older, the child, after being  
25 advised of alternative treatments and informed of the benefits and  
26 risks of the medication, *understands his or her right to refuse the*  
27 *medication, and has given his or her written informed consent.*

28 ~~(3)~~  
29 (C) The prescribing physician submitting the request for  
30 psychotropic medication *attests under penalty of perjury that he*  
31 *or she* conducted a comprehensive examination of the child in  
32 compliance with Section 2242 of the Business and Professions  
33 Code that takes into account the child's trauma ~~history~~ *and*  
34 *medication history and is based upon multiple sources, including,*  
35 *among others, the child's medical records, the child, the child's*  
36 *parents, relatives, teacher, caregiver or caregivers, past*  
37 *prescribers of psychotropic medication, or other health care*  
38 *providers. The prescribing physician shall also attest that the*  
39 *dosage or dosage range requested is appropriate for the child.*

40 ~~(4) The prescribed dosage is appropriate for the child's age.~~

1     ~~(5)~~

2     (D) The short- and long-term risks associated with the use of  
3     psychotropic medications by the child does not outweigh the  
4     reported benefits to the child.

5     ~~(6)~~

6     (E) There are no less invasive *and effective* treatment options  
7     available ~~other than the administration of psychotropic medications~~.  
8     *to meet the needs of the child.*

9     (2) *The person or entity submitting the request for authorization*  
10    *of the administration of psychotropic medication shall bear the*  
11    *burden of proof established in this section.*

12    (c) A court shall not issue an order authorizing the administration  
13    of psychotropic medications for a child unless a second  
14    independent medical opinion is obtained from a child psychiatrist  
15    or a psychopharmacologist if one or more of the following  
16    circumstances exist:

17    (1) The request is for any class of psychotropic medication for  
18    a child who is five years of age or younger.

19    (2) The request would result in the child being administered  
20    ~~multiple~~ *three or more* psychotropic medications concurrently.

21    (3) The request is for the concurrent administration of any two  
22    drugs from the same class unless the request is for medication  
23    tapering and replacement that is limited to no more than 30 days.

24    (4) The request is for a dosage that exceeds the amount  
25    recommended for children.

26    (5) *The request is for the administration of a psychotropic*  
27    *medication for a use that is not approved by the federal Food and*  
28    *Drug Administration for children or adolescents.*

29    (d) The court shall not authorize the administration of the  
30    psychotropic medication unless the court is provided  
31    documentation *that* all of the appropriate lab screenings,  
32    measurements, or tests for the child have been completed in  
33    accordance with ~~the~~ accepted medical guidelines no more than 30  
34    days prior to submission of the request to the court.

35    (e) (1) *No later than 45 days after the authorization of a new*  
36    *psychotropic medication is granted or at the next review hearing*  
37    *scheduled for the child pursuant to Section 366, 366.21, 366.22,*  
38    *or 366.31, whichever is earlier, the court shall conduct a review*  
39    *hearing to determine all of the following:*

40    (A) *Whether the child is taking the medication or medications.*

1     (B) *To what extent the symptoms for which the medication or*  
2 *medications were authorized have been alleviated.*

3     (C) *What, if any, adverse effects the child has suffered.*

4     (D) *Any steps taken to address those effects.*

5     (E) *The date or dates of follow-up visits with the prescribing*  
6 *physician since the medication or medications were authorized.*

7     (2) *If based upon this review, the court determines that the*  
8 *proffered benefits of the medication have not been demonstrated*  
9 *or that the risks of the medication outweigh the benefits, the court*  
10 *shall reconsider, modify, or revoke its authorization for the*  
11 *administration of medication.*

12     ~~(e)~~

13     (f) (1) In counties in which the county child welfare agency  
14 completes the request for authorization for the administration of  
15 psychotropic medication, the agency is encouraged to complete  
16 the request within three business days of receipt from the physician  
17 of the information necessary to fully complete the request.

18     (2) Nothing in this subdivision is intended to change current  
19 local practice or local court rules with respect to the preparation  
20 and submission of requests for authorization for the administration  
21 of psychotropic medication.

22     ~~(f)~~

23     (g) Within seven court days from receipt by the court of a  
24 completed request, the juvenile court judicial officer shall either  
25 approve or deny in writing a request for authorization for the  
26 administration of psychotropic medication to the child, or shall,  
27 upon a request by the parent, the legal guardian, or the child's  
28 attorney, or upon its own motion, set the matter for hearing.

29     ~~(g)~~

30     (h) Psychotropic medication or psychotropic drugs are those  
31 medications administered for the purpose of affecting the central  
32 nervous system to treat psychiatric disorders or illnesses. These  
33 medications include, but are not limited to, anxiolytic agents,  
34 antidepressants, mood stabilizers, antipsychotic medications,  
35 anti-Parkinson agents, hypnotics, medications for dementia, and  
36 psychostimulants.

37     ~~(h)~~

38     (i) Nothing in this section is intended to supersede local court  
39 rules regarding a minor's right to participate in mental health  
40 decisions.

1     (†)

2     (j) This section shall not apply to nonminor dependents, as  
3 defined in subdivision (v) of Section 11400.

4     *SEC. 2. No reimbursement is required by this act pursuant to*  
5 *Section 6 of Article XIII B of the California Constitution because*  
6 *the only costs that may be incurred by a local agency or school*  
7 *district will be incurred because this act creates a new crime or*  
8 *infraction, eliminates a crime or infraction, or changes the penalty*  
9 *for a crime or infraction, within the meaning of Section 17556 of*  
10 *the Government Code, or changes the definition of a crime within*  
11 *the meaning of Section 6 of Article XIII B of the California*  
12 *Constitution.*

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